

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Bashir Noor Elmi,

Civ. No. 22-3073 (JWB/DJF)

Plaintiff,

v.

Nuka Express Inc.,

**ORDER ACCEPTING  
REPORT AND  
RECOMMENDATION OF  
MAGISTRATE JUDGE  
AS MODIFIED**

Defendant.

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The above matter is before the Court on the Report and Recommendation (“R&R”) of United States Magistrate Judge Dulce J. Foster dated March 21, 2023. (Doc. No. 7.) No objections have been filed to that R&R in the time permitted. In the absence of timely objections, the Court reviews an R&R for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996). Having reviewed the R&R, the Court finds no clear error.

The R&R recommends dismissal for failure to prosecute and for lack of jurisdiction. (Doc. No. 7 at 1.) Magistrate Judge Foster had issued an Order to Show Cause requiring Plaintiff Bashir Noor Elmi to demonstrate that the Court has subject-matter jurisdiction over his claims and that this District is a proper venue. (Doc. No. 3.) Plaintiff did not respond, so his Complaint will be dismissed for failure to prosecute under Fed. R. Civ. P. 41(b). As such, the Court need not resolve the jurisdictional questions raised by the Magistrate Judge.

**IT IS HEREBY ORDERED** that:

1. The March 21, 2023 Report and Recommendation (Doc. No. 7) is **ACCEPTED AS MODIFIED**;
  2. Plaintiff Bashir Noor Elmi's Complaint (Doc. No. 1) is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute under Fed. R. Civ. P. 41(b); and
  3. Plaintiff's Application to Proceed in District Court without Prepaying Fees or Costs (Doc. No. 2) is **DENIED** as moot.
- LET JUDGMENT BE ENTERED ACCORDINGLY.**

Date: April 25, 2023

*s/ Jerry W. Blackwell*  
JERRY W. BLACKWELL  
United States District Judge